

Serial No. 09/601,868
Art Unit: 1751

Remarks

Claims 10-25 stand rejected under 35 USC 102(b) as being anticipated by Rondeau et al. Applicants submit the foregoing amendment for the purpose of distinguishing their claimed invention over the cited reference. Applicants respectfully request that the Examiner reconsider the standing grounds of rejection in view of the following remarks.

Claims 10 - 14

The Examiner stated in section 3 of the Office Action that Rondeau et al. teach and disclose a composition "for [emphasis added] permanent-waving the hair as claimed (see page 2, line 29)". Applicants respectfully point out that this is not what the reference states. The corresponding U.S. patent (No. 6,190,421 B1), for which the cited reference is the priority document, indicates that the disclosed composition is not for "permanent-waving" as stated by the Examiner. Rather, at column 1, lines 55-58, it is stated that the dye formulation of Rondeau et al. "show[s] good resistance towards...various treatments to which the hair may be subjected (washing, permanent-waving)" [emphasis added]. It is clear, therefore, that the formula ion of the reference is NOT used for permanent-waving hair, but rather that it is able to withstand the deleterious consequences caused by permanent-waving operations.

Applicants respectfully request the withdrawal of the 102(b) rejection of claims 10-14 because, as pointed out above, Rondeau et al. clearly do not disclose a composition for permanent-waving hair. Applicants composition is limited to being an "oxidative fixing" composition for permanently waving hair.

Serial No. 09/601,868

Art Unit: 1751

Claims 15 - 18

Applicants have cancelled claims 15 and 16 and offer claim 26 as a replacement. New claim 26 incorporates the subject matter of claims 15 and 16. It also more clearly and more narrowly defines the scope of the kit in accord with the disclosure of the specification (page 1, lines 12-14; page 3, lines 8-11 and page 8, lines 5-11).

The kit claimed by Applicants consists of two packages. The first package contains the reducing agent. The reducing agent is first applied to the hair in a permanent wave treatment to break the disulfide bonds that are found deep within the protein strands of each shaft of hair. The second package contains the cationic dye and the oxidative fixing agent. After the reducing agent has broken down the disulfide bonds, the hair is mechanically shaped as desired, then the contents of the second package are applied to the hair, to both color the hair (cationic dye) and reform the disulfide bonds (oxidative fixing agent) to enable the hair to retain its newly formed shape.

Applicants' kit contains only 2 compartments in contrast to the kit of Rondeau et al. which contains "at least three compartments" (col. 2, lines 21-23). The first compartment of the reference's kit contains at least one oxidation dye precursor and, optionally, at least one coupler. The second compartment contains at least one direct dye and the third compartment contains the oxidizing agent. This is different from Applicants' kit, in which an oxidative fixing agent and the dye are contained within one compartment or package. Further, the first package of Applicants' kit contains a reducing agent. There is no corollary to Applicants' first package in the kit of Rondeau et al. In view of the foregoing reasons, it is respectfully requested that the 102(b) rejection be withdrawn with respect to claims 17, 18 and newly added 26.

Serial No. 09/601,868

Art Unit: 1751

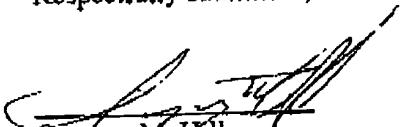
Claims 19 - 25

With respect to claims 19-25, Applicants respectfully point out that Rondeau et al. only pertains to a method for dyeing hair. Nowhere does the reference disclose a method for permanently waving hair. The withdrawal of the anticipation rejection as applied to claims 19-25 is therefore respectfully requested.

CONCLUSION

In view of the foregoing comments and limiting amendment, Applicants believe that the claims set forth above present patentable subject matter. Accordingly, they earnestly solicit the issuance of a notice of allowance. If necessary, the Commissioner is hereby authorized to charge any deficiency in the required fee or to credit any overpayment in connection with this amendment to Deposit Account 01-1250.

Respectfully submitted,


Gregory M. Hill
(Reg. No. 31,369)
Attorney for Applicants
610-278-4964

Henkel Corporation
Law Department
2500 Renaissance Boulevard, Suite 200
Gulph Mills, PA 19406
GMH/aa